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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,489	09/05/2003	Dale Francis Bittner	9355	8367
27752	7590	11/30/2005	EXAMINER	
THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION WINTON HILL TECHNICAL CENTER - BOX 161 6110 CENTER HILL AVENUE CINCINNATI, OH 45224				ANDERSON, CATHARINE L
			ART UNIT	PAPER NUMBER
			3761	
DATE MAILED: 11/30/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b><i>Office Action Summary</i></b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/656,489	BITTNER ET AL.
<b>Examiner</b>	Art Unit	
C. Lynne Anderson	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 9/5/03.

2a)  This action is FINAL.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-20 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 05 September 2003 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/5/03.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_ .

**DETAILED ACTION*****Claim Objections***

Claims 13-20 are objected to because of the following informalities:

Claims 13-20 depend from claim 11, though they follow independent claim 12.

For purposes of examination, claims 13-20 will be considered to depend from claim 12. Applicant is asked to please clarify for the Examiner from which claim claims 13-30 are intended to depend.

***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the secondary absorbent member being bi-folded and tri-folded must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must

be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor et al. (6,258,075).

Taylor discloses a tampon 20, as shown in figure 1, comprising a primary absorbent member 21 having an insertion end 30, a withdrawal end 34, and an outer surface. The primary absorbent member 21 is compressed into shape, as disclosed in column 6, lines 12-14. A secondary absorbent member 60 is attached to the outer surface of the primary absorbent member 21 at the withdrawal end 34, as shown in figure 1.

With respect to claim 2, the secondary absorbent member 21 is sheet-like, as shown in figure 1.

With respect to claim 3, the secondary absorbent member 60 extends between 20 mm and 70 mm from the withdrawal end 43, as disclosed in column 9, lines 63-64.

With respect to claim 4, the secondary absorbent member 60 is not compressed, as disclosed in column 6, lines 7-9.

With respect to claims 5 and 6, the secondary absorbent member 60 can be either a single ply or comprise a first and a second ply, as disclosed in column 9, lines 52-58.

With respect to claim 7, the first and second plies, shown in figure 6, are comprised of different material and therefore have different capillary.

With respect to claims 8 and 9, the secondary absorbent member 60 is shown in figure 9 in a flat state prior to formation into a pledget. The secondary absorbent member 60 may be bi- and tri-folded during formation, as disclosed in column 6, lines 26-29.

With respect to claim 10, a withdrawal member 48 is joined to the primary absorbent member 21, as shown in figure 1.

With respect to claim 11, the secondary absorbent member 60 comprises an indent that is fully capable of functioning as a finger indent, as shown in figure 1.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al. (6,258,075) in view of Kobler (3,946,737).

Taylor discloses all aspects of the claimed invention with the exception of the primary absorbent member comprising a finger indent. Taylor discloses a tampon 20, as shown in figure 1, comprising a primary absorbent member 21 having an insertion end 30, a withdrawal end 34, and an outer surface. The primary absorbent member 21 is compressed into shape, as disclosed in column 6, lines 12-14. A secondary absorbent member 60 is attached to the outer surface of the primary absorbent member 21 at the withdrawal end 34, as shown in figure 1.

Kobler discloses a tampon 10, as shown in figure 7, comprising a bulge 11 forming an indent below it, providing a space for the fingers to grasp the tampon for easy insertion, as described in column 1, lines 34-41.

It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide the primary absorbent member of Taylor with a finger indent, as taught by Kobler, to provide a space for the fingers to grasp the tampon for easy insertion.

With respect to claim 13, the secondary absorbent member 21 is sheet-like, as shown in figure 1.

With respect to claim 14, the secondary absorbent member 60 extends between 20 mm and 70 mm from the withdrawal end 43, as disclosed in column 9, lines 63-64.

With respect to claim 15, the secondary absorbent member 60 is not compressed, as disclosed in column 6, lines 7-9.

With respect to claims 16 and 17, the secondary absorbent member 60 can be either a single ply or comprise a first and a second ply, as disclosed in column 9, lines 52-58.

With respect to claims 18 and 19, the secondary absorbent member 60 is shown in figure 9 in a flat state prior to formation into a plegget. The secondary absorbent member 60 may be bi- and tri-folded during formation, as disclosed in column 6, lines 26-29.

With respect to claim 20, a withdrawal member 48 is joined to the primary absorbent member 21, as shown in figure 1.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents 4,020,841; 3,965,905; and 3,834,389 disclose tampons having secondary absorbent members. U.S. Patent Application Publication US 2004/0254557 also discloses a tampon having a secondary absorbent member.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

CON  
cla  
November 22, 2005

